

FOX ROTHSCHILD LLP

Formed in the Commonwealth of Pennsylvania

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

HUDSON MARINE MANAGEMENT
SERVICES, INC.,

Plaintiff,

v.

ELICERE, INC.,

Defendant.

Civil Action No. 10-cv-3367 (NLH)

CIVIL ACTION

Electronically Filed

ORDER TO SHOW CAUSE
WITH TEMPORARY RESTRAINING ORDER

THIS MATTER having been opened to the Court by Fox Rothschild LLP (Thomas A. Cunniff, Esq., appearing), attorneys for Plaintiff Hudson Marine Management Services, Inc. ("HMMS" or "Plaintiff") on application for an Order to Show Cause with a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure requiring Elicere to return HMMS's property related to the TMSALogix® Application ("TMSALogix"), as described in Subcontract Agreement E01-C0001004 (the "Agreement") and Work Order Contract E01-C0001005 (the "Work Order"), to HMMS, notice having been given to Defendant Elicere, Inc. ("Elicere" or "Defendant"), and Elicere being represented by Porzio Bromberg LLP (Charles Stoia,

Esq., appearing), and a Verified Complaint and Brief in Support having been filed in support of HMMS's application, and Elicere having filing opposing papers, and the Court having reviewed the papers submitted and having heard the argument of counsel, and other good cause being shown, and for the reasons stated on the record on July 2, 2010;

IT IS on this 2nd day of July, 2010, ORDERED that:

1. Pursuant to Fed. R. Civ. P. 65, Elicere, its agents, employees, representatives, and anyone acting in concert with it, are hereby ordered to immediately provide HMMS, its agents, employees, contractors, representatives, or other persons designated by HMMS with access to Elicere's work product under the Agreement, including, but not limited to, the source code for TMSALogix any and all updates, patches, fixes, revisions, or versions of same, any and all source code management documents, any and all requirements documents, any and all project management documents, and any other documents, deliverables, or other materials in any way related to the TMSALogix Application, as provided in Paragraph 11 of the Agreement, until further Order of the Court;

2. The temporary restraints in Paragraph 2 of this Order shall become operative upon the posting of bond or other security by HMMS in the amount of \$434,632.79;

3. HMMS may apply to this Court on one business day's notice for modification of this Order, and Elicere shall have the right to respond to any such application;

4. If HMMS posts a bond or security as provided in Paragraph 2 of this Order, then Elicere consents to HMMS receiving possession of all materials, information,

and deliverables prepared or developed by Elicere under the Agreement and the Work Order entered into between Elicere and HMMS, including, but not limited to, the source code for TMSALogix, any and all updates, patches, fixes, revisions, or versions of same, any and all source code management documents, any and all requirements documents, any and all project management documents, and any other documents, deliverables, or other materials in any way related to the TMSALogix Application and HMMS's application for a preliminary injunction will be moot.

5. If not otherwise resolved, HMMS's application for a preliminary injunction shall be heard on July 16, 2010 at 11 o'clock or as soon thereafter as counsel may be heard, why HMMS's request for issuance of a preliminary injunction should not be granted; and why an order for preliminary injunctive relief should not be granted requiring Elicere to immediately return to HMMS all materials, information, and deliverables prepared or developed by Elicere under the Agreement and the Work Order entered into between Elicere and HMMS, including, but not limited to, the source code for TMSALogix, any and all updates, patches, fixes, revisions, or versions of same, any and all source code management documents, any and all requirements documents, any and all project management documents, and any other documents, deliverables, or other materials in any way related to the TMSALogix Application, and requiring Elicere to immediately return to HMMS any and all servers, equipment, and hardware owned by HMMS.

6. Elicere's counsel having entered an appearance, it has received or will receive electronic notice of this Order to Show Cause, the Verified Complaint, and Brief in Support of Plaintiff's Application for an Order to Show Cause with Temporary

Restraints and for a Preliminary Injunction, and further service is unnecessary;

7. Defendant shall file with this Court, with a copy served upon attorneys for Plaintiff, any affidavit and brief in opposition to the Plaintiff's request for a preliminary injunction on or before the 8th day of July, 2010;

8. Plaintiff shall file reply papers, with a copy served upon the Defendant, or Defendant's counsel, if known, by the 13th day of July, 2010; and

9. Defendant must file with this Court and serve upon Plaintiff's attorneys an Answer to the Verified Complaint within 35 days after entry of this Order. If the Defendant fails to answer, judgment by default may be rendered against it for the relief demanded in the complaint.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Noel L. Hillman", with a long horizontal flourish extending to the right.

Hon. Noel L. Hillman, U.S.D.J.